

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

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Order Instituting Rulemaking to Develop an
Electricity Integrated Resource Planning Framework
and to Coordinate and Refine Long-Term Procurement
Planning Requirements

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) Rulemaking 16-02-007
) (Filed February 11, 2016)
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**MOTION OF SONOMA CLEAN POWER AUTHORITY
TO SUBMIT INFORMATION UNDER SEAL**

June 28, 2018

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In accordance with Rule 11.4 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, the Sonoma Clean Power Authority (“SCP”) respectfully requests the issuance of a ruling confirming that certain information submitted by SCP as part of the Commission’s Integrated Resource Plan (“IRP”) process be submitted to the Commission and Commission Staff under seal. In addition, for reasons described below, SCP further requests that the ruling issued in response to this motion be extended to all Community Choice Aggregation (“CCA”) programs. SCP has provided a sample ruling as Attachment A to this motion.

As part of their IRP compliance filings, Community Choice Aggregators are required, among other things, to list existing Resource Adequacy (“RA”)-only contracts by month, including the megawatt (“MW”) volumes under contract. In the context of the Commission’s RA rulemaking proceeding (R.17-09-020), the Commission ruled that RA contract information is market-sensitive and it is appropriate for Community Choice Aggregators to file this information under seal. Specifically, on April 27, 2018, the California Community Choice Association (“CalCCA”) submitted a motion in R.17-09-020 (“CalCCA Motion”) requesting that five categories of information regarding CCA programs’ RA contracts be identified as market-sensitive, and that Community Choice Aggregators be allowed to file this information under seal.

The CalCCA Motion was necessary because, although the Commission decision setting forth confidentiality rules, D.06-06-066 applies to Community Choice Aggregators, the confidentiality matrices set forth in that decision do not apply to Community Choice Aggregators.

The five categories identified in the CalCCA Motion for confidential treatment were:

1. Generic RA capacity under contract (MW).
2. Flexible Capacity under contract (MW).
3. Capacity price (\$kW/month).
4. System or local capacity (MW).
5. Flexible capacity (MW).

On May 18, 2018, the Commission issued a ruling in R.17-09-020 granting the request made in the CalCCA Motion.¹ The RA Ruling stated that “the categories proposed to be treated as confidential by CalCCA appear to be reasonably tailored to address confidentiality concerns and will permit Staff to obtain information necessary to administer the resource adequacy program.”² Accordingly, the RA Ruling held that the categories of information identified by CalCCA may be submitted under seal and shall be kept confidential for a period of three years.³

SCP requests that the Commission issue a ruling in this proceeding that will allow Community Choice Aggregators, as part of their respective IRP submittals, to file under seal the same categories of RA contract information that has previously been authorized for confidential treatment in the context of the RA proceeding. As a general matter, information may be filed with the Commission under seal if the public interest served by keeping the information

¹ See *Administrative Law Judge’s Ruling Granting the California Community Choice Association’s Request to Submit Information Under Seal*, issued on May 18, 2018 (“RA Ruling”).

² RA Ruling at 2.

³ See RA Ruling at 2.

confidential outweighs the public interest in disclosing the information.⁴ Here, public disclosure of Community Choice Aggregators' specific RA procurement information would provide little to no benefit to the public. This is clearly outweighed by the significant harm to Community Choice Aggregator customers that would be caused by publicly releasing this information. As CalCCA previously stated in the CalCCA Motion, the categories of information identified above include confidential and highly-sensitive information, including the prices that Community Choice Aggregators have paid for RA capacity.⁵ Releasing this information would put CCA programs at a competitive disadvantage vis-a-vis other market participants, compromising their ability to procure RA capacity on terms favorable to their ratepayers.⁶

The market sensitivity and confidentiality concerns regarding this information are equally applicable to the IRP proceeding, and allowing this information to become public would have the same market-distorting effects whether it were to be released in RA filings or IRP filings. Filing this information under seal would not prejudice any party or unduly burden or delay the Commission's important work in the IRP proceeding. Moreover, a ruling from the Commission is generally necessary to ensure that confidential information provided by a public agency does not lose its protected status.⁷

Although SCP is submitting this motion individually, SCP requests that the Commission's ruling in response to this motion be expressly made applicable to all Community Choice Aggregators. This is appropriate given the fact that information in question has already

⁴ See generally D.06-06-066 at 6. See also Cal. Gov. Code § 6255(a).

⁵ See CalCCA Motion at 2.

⁶ See CalCCA Motion at 2.

⁷ See CalCCA Motion at 3 (referencing Cal. Gov. Code § 6254.5(e)).

been categorized as market sensitive in the RA proceeding, and the fact that the RA Ruling authorized all Community Choice Aggregators to file their RA contract information under seal.

For the reasons set forth above, SCP respectfully asks that the Commission allow Community Choice Aggregators to file their RA procurement information under seal and approve the sample order included as Attachment A to this motion.

Dated: June 28, 2018

Respectfully submitted,

/s/ Neal Reardon

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ATTACHMENT A

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**ADMINISTRATIVE LAW JUDGE’S RULING GRANTING SONOMA CLEAN POWER
MOTION TO SUBMIT INFORMATION UNDER SEAL**

On June 28, 2018 Sonoma Clean Power filed a motion to submit certain data containing sensitive information under seal.

Good cause appearing, IT IS RULED that:

1. Sonoma Clean Power’s motion to submit information under seal is granted as set forth below.
2. This ruling shall apply to the information submitted by all Community Choice Aggregators.
3. The following categories of information may be submitted by Community Choice Aggregators under seal and shall be kept confidential for a period of three (3) years from the date of the Data Request or until a Commission decision or ruling supersedes this ruling: (1) generic capacity under contract (MW); (2) flexible capacity under contract (MW); (3) capacity price (\$kW/month); (4) system or local capacity (MW); and (5) flexible capacity (MW).

Dated: _____, at San Francisco, California.
